



W.A.No.2775 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

Writ Appeal No.2775 of 2022

The Management
General Manager
Tamil Nadu State Transport Corporation
(Salem) Limited
No.12, Ramakrishna Salai
Salem 636 007.

.. Appellant

Vs.

1. T.Senthilkumar

2. Assistant Commissioner of Labour
(Enforcement)
Authority under Tamil Nadu Industrial
Establishment (Conferment of Permanent
Status to Workmen) Act, 1981
Salem.

.. Respondents

Prayer: Appeal under Clause 15 of Letters Patent against the order
dated 27.01.2022 made in W.P.No.31897 of 2019.



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For the Appellant : Mr.K.Raja

For the Respondents : Mr.V.Ajay Khose for R1

Mrs.V.Yamunadevi
Special Government Pleader for R2

JUDGMENT

(Made by the Hon'ble S.Vaidyanathan,J)

The Management has come up with this appeal assailing the order of the learned Single Judge confirming the order conferring permanent status to the employee.

2. The first respondent/writ petitioner has joined the services of the Transport Corporation on 27.10.2007 and he was recruited through employment exchange. He was conferred with permanent status by order dated 06.12.2018 with effect from 27.10.2009. Challenging the same, the appellant filed the writ petition and the same was dismissed by the learned Single Judge. Hence, the above appeal.

3. Learned counsel for the appellant/Management contends that



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the first respondent/workman was working sporadically and that he was a reserved driver and therefore, he will not be entitled to permanent status. Further, no documents have been produced by the employee and the authority has also not discussed in depth to confer permanent status to the workman.

4. Learned counsel appearing for the workman contended that in the light of the deeming provision under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981, the workman deemed to have attained permanent status, as the factum of employment, namely entry into service by recruitment through employment exchange is not in dispute.

5. It is no doubt that burden is on the workman to prove that he has discharged duty continuously by letting in evidence as per the judgment in ***The Manager, Reserve Bank of India v. S.Mani [(2005) 5 SCC 100]***.

6. In this case, the authority has scrutinised page Nos.17 to 96



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of the Management book produced by the workman and only thereafter, has granted permanent status to the workman. The said finding of fact was rightly not interfered with by the learned Single Judge.

7. We have also called for the records and verified page Nos.17 to 96 mentioned supra and found that there is a clear evidence to prove that the workman has rendered continuous service.

8. With regard to the issue of reserved driver, this Court has rendered findings and granted relief to the workman similarly placed, in the case of ***The Managing Director v. The Deputy Commissioner of Labour [W.A.No.678 of 2023 dated 13.04.2023]***.

9. In view of the above, we do not find any merit in the writ appeal and accordingly, it is dismissed.

10. At this stage, learned counsel for the workman submits that



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the workman has not been paid the scale of pay applicable to other co-employees and hence, seeks a direction to pay the entire wages. We make it very clear that whatever the amount already paid will have to be adjusted and the difference in amount payable to the regular employee on and from the date of conferment of permanent status will have to be paid within a period of four months from the date of receipt of a copy of this order.

11. It is represented by learned counsel for the Management that subsequently, the workman was disengaged. We make it clear that till the date of his disengagement, the workman would be entitled to monetary benefits and it will be open to him to challenge disengagement, if not done earlier, in accordance with law.

In the result, the writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.22552 of 2022 is also dismissed.

Index : Yes/No
Neutral Citation : Yes/No

(S.V.N.,J.) (K.R.S., J.)
30.08.2023



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To

The Assistant Commissioner of Labour (Enforcement)
Authority under Tamil Nadu Industrial Establishment
(Conferment of Permanent Status to Workmen) Act, 1981
Salem.



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S.VAIDYANATHAN,J,
and
K.RAJASEKAR, J.

(kpl)

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